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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,897	05/07/2002	Clyde Hughes	UDL-101	2366

36822 7590 12/30/2004

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STAMFORD, CT 06902

EXAMINER

LE, TAN

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/049,897

Applicant(s)

HUGHES, CLYDE

Examiner

Tan Le

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,6,7,9 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,6,7,9 and 13-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This is the fourth office action for application serial number 10/049,897. This application contains 12 pending claims numbered 1-3, 6-7, 9 and 13-18.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3, 6-7, 9 and 13-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is rejected as being inconsistent between the language in the preamble and certain portions in the body of the claims, thereby making the scope of the claims unclear. Applicant is required to clarify what the claim is intended to be drawn to i.e., either a carrier mount alone or the combination of the carrier mount and the frame member, and the language of the claim be consistent with the intent. In formulating a rejection on the merits, the examiner is considering that the claim is drawn to the combination.

#### ***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 6-7, 9 and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,267,679 to Kamaya et al.

Regarding claims 1, 6, 7, 9 and 18, Kamaya et al. discloses a carrier mount (See Figs. 1E, 1D or 1A, for example) comprising a pouch (1) having an elongated mouth opening through which an object may be introduced into the interior of the pouch, the opening being narrow relative to the major faces of the pouch; securing arrangement including a collar (12, 20, 27) being expandable and contractible; the collar being formed of a split collar (27) having two parts opposed to one another each with a curved surface and having means for selectively altering diameter of the collar, and a closure means for closing the opening wherein the closure means comprises a zipper closure (21).

Kamaya et al. lacks teaching of the collar being provided as a spring. However to have made a collar being as a spring would have been deemed obvious over Kamaya et al. because it was obvious that the collar can be made with a variety of known different materials that can be working such as a spring. Moreover, to have made the collar being as a spring would also have been considered an obvious matter of design choice as long as it is suitable for the intended use and the choice to be made whether working as a spring or not does not change the function of the structure.

Kamaya et al. also lacks teaching a frame member of an exercise machine where the collar designed to be located around the frame member for securing the pouch in close proximity to the frame member.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the collar of Kamaya et al. clasp or loop around the frame member for the desirable purpose of simply hanging or suspending the pouch to the frame member since the collar of Kamaya et al. can be hung, suspended or fastened to any frame member and capable of locating around the frame member for securing the pouch in close proximity to the frame member.

Regarding claims 2-3, Kamaya et al. also discloses the pouch comprising a flexible material and at least a portion of the exterior of the pouch comprises a water resistant material.

Regarding claims 13-14, Kamaya et al. also discloses the collar being adjustable and tightenable about the object to be tightening and comprising a rigid and a flexible element.

Regarding claim 15, Kayama et al. discloses the collar portion being positioned adjacent a wall of the pouch; and the collar being a quick release fastening element.

Regarding claims 16-17, Kamaya et al. further discloses the pouch having opposed side panels defining major faces and a relative shallow depth; and the opening for receiving the device is provided along the upper most edge of the pouch, and the upper most edge of the pouch being substantially arcuate.

#### ***Response to Arguments***

4. Applicant's arguments filed on 10/12/04 have been fully considered but they are not persuasive.

Applicant has further amended independent claims 1 and 18 and pointed to alleged distinctions between the prior art and their invention based upon amendment introduced into the claims. However, these independent claims and along with other dependent claims still stand reject as pointed out in the office action.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (703) 305-8244. The examiner can normally be reached on Mon. through Fri. from 9:00AM – 6:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tan Le  
December 21, 2004



LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER